IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24913 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SECRETARY DINESH CHAMPAKLAL SHAH - Petitioner
Versus
TORRENT POWER AEC LTD. THR' ITS CHAIRMAN & 1 - Respondents

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Appearance :
MS MEGHA R CHITALIA for Petitioner.
NOTICE SERVED for Respondent(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 27/12/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule. The endorsement on the board indicates that both the respondents are duly served with notice for final disposal of the petition. However, none of the respondents has appeared either through its Lawyer or through its constituted agent, nor any of them has filed reply controverting the averments made in the petition. Therefore, this Court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in the instant petition upon the respondents. Having regards to the facts of the case, the petition is taken up for final disposal today.

2. By filing this petition under Article 226 of the Constitution, the petitioner i.e.Dinesh Champaklal Shah, who is Secretary of Ramnagar Navkar Co.Op.Housing Society Ltd. has prayed to issue a writ of mandamus or any other appropriate writ or order, directing the respondent No.1 i.e. The Torrent Power A.E.C.Ltd., to grant 32

electric connections to the residential Units constructed by him.

3. The record shows that the land bearing Sub-Plot No.301/2+3/1+2D of Final Plot No.301/2+3 of Sabarmati belonged to Ramnagar Navkar Co.Op.Housing Society Ltd. The Chairman/Secretary of the Society were desirous of developing the land belonging to the Society. Therefore, they applied to Ahmedabad Municipal Corporation for grant of Commencement Letter. The record shows that the Commencement Letter was granted to the petitioner on September 1, 2005, which is quite evident from the contents of document produced at Annexure-C to the petition. The case of the petitioner is that after obtaining development permission, the petitioner has constructed 32 residential Units. After construction of the residential Units was over, it was the duty of the petitioner to obtain Building Use Permission and thereafter to apply to the respondent No.1 for supply of electric connection to the Units

constructed by him. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 for supply of electric connections to the Units constructed by him. The said request has been turned down by the respondent No.1, which is quite evident from the contents of letter dated November 15, 2006 addressed by the General Manager of the respondent No.1 to the petitioner, a copy of which is produced by the petitioner at Annexure-A to the petition. By the said communication, the petitioner has been called upon to produce Building Use Permission to enable the respondent No.1 to supply electricity connection to the Units constructed by him. Under the circumstances, the petitioner has filed the instant petition and claimed reliefs to which reference is made earlier.

4. The petition was placed for admission hearing on December 1, 2006 and after hearing the learned Counsel for the petitioner, notice for final

disposal of the petition was issued. As observed earlier, both the respondents are duly served, but, none of them has appeared before the Court nor contested the petition.

5. This Court has heard Ms. Megha R.Chitalia, learned Counsel for the petitioner and considered the documents forming part of the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if the following directions are issued:

(1) The petitioner will approach the Ahmedabad Municipal Corporation for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Municipal Corporation is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the respondent No.1., i.e. Torrent Power AEC Limited, for providing electricity connection to 32 residential Units constructed by him with a proper application/form/format and by paying charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to 32 residential Units constructed by the petitioner within one month on usual terms and conditions.

(5) In case the Ahmedabad Municipal Corporation is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Municipal Corporation shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to 32 residential Units constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to 32 residential Units constructed by the petitioner within a period of fifteen days.

(6) In case the Ahmedabad Municipal Corporation does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to 32 residential Units constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to 32 residential Units constructed by the petitioner.

(7) The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Municipal Corporation, the petitioner will have no objection to disconnection of electricity supply provided to 32 residential Units constructed by him. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order

as to costs. Direct Service is permitted.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

(patel)